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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 28 January 1991, at 11 a.m.

Temporary Chairman: Mrs. QUISUMBING (Philippines)

Chairman: Mr. BERNALES BALLESTEROS (Peru)

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The meeting was called to order at 11 a.m.

OPENING OF THE SESSION

1. The TEMPORARY CHAIRMAN declared open the forty-seventh session of the Commission on Human Rights.

2. The international climate at the start of the present session was quite different from the climate in 1990, and in many ways the optimism that had reigned at the forty-sixth session had faded to a memory. In view of the threat to fundamental rights and freedoms in many regions of the world, the forty-seventh session took on greater importance.

3. Some progress had, however, been made, as could be seen from the upsurge of interest in the international community for human rights and the work of the Commission. Since the end of the previous session, the Commission's resolutions and decisions had been implemented or followed up by various bodies. First of all, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families had been adopted in December 1990. Many States had rapidly acceded to the Convention on the Rights of the Child since its adoption in December 1989. Significant progress had been made in the work of standard-setting by the Working Group on the draft body of principles and guarantees for the protection of mentally-ill persons and for the improvement of mental health care and also by the Working Group on the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms. It was to be hoped that their efforts would soon give rise to new international human rights instruments.

4. In the area of implementation monitoring, she had, as Chairman at the forty-sixth session, and after consultation with other members of the Bureau, appointed a Special Rapporteur to deal with the question of the sale of children, child pornography and child prostitution, and also an independent Expert under the confidential procedure established by Economic and Social Council resolution 1503 (XLVIII). The Special Rapporteur and the independent Expert were expected to submit their reports at the current session.

5. In regard to advisory services and technical assistance, as well as public information, the Centre for Human Rights had carried out its ambitious projects despite a serious shortage of financial and human resources. Seminars, workshops and training courses had been held in various parts of the world, including the first regional workshop on human rights, held in Manila, Philippines, in May 1990, and a national workshop on human rights, organized in Jakarta, Indonesia, in January 1991.

6. With regard to Commission resolution 1990/64, on the need for a further strengthening of a substantial and meaningful dialogue between the Commission and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which had invited "the Chairman of the Commission to inform the Sub-Commission on the debate" under the Commission's agenda item dealing with the report of the forty-second session of the Sub-Commission, she had personally spoken before the Sub-Commission at its forty-third session. It had been the first time a chairman of the Commission had been present at the

Sub-Commission, and it was to be hoped that that would lead to further dialogue between the two human rights bodies so as to achieve closer co-operation and co-ordination.

7. The Economic and Social Council had, in May 1990, decided to increase the membership of the Commission as of its forty-eighth session by 10 members, thereby recognizing the ever-increasing importance of the work of the Commission in the field of human rights as well as the need for wider participation by the Member States of the United Nations in its deliberations and decisions. The working group to be set up to deal with questions in connection with the enlargement of the Commission was expected to address the issues concerned in order to ensure a smooth transition of the Commission to a new era.

8. In 1990, the General Assembly, in its resolution 45/155, had also decided to convene a World Conference on Human Rights in 1993 to undertake a thorough review of the United Nations human rights programme as a whole and to set out long-term policy and strategy for better protection and promotion of human rights. The Commission's present session should give strong support to the World Conference's Preparatory Committee, which was scheduled to meet in September 1991.

9. As to the ongoing armed conflict in the Gulf, it was immensely saddening that the right to life and other essential human rights had been seriously violated for lack of a peaceful solution. It was to be hoped that the Commission would address that question in order to protect the human rights of all those, whether soldiers or civilians, who were affected by the conflict.

10. She expressed the hope that the Commission could be chaired more frequently by a woman and that greater decentralization of the human rights institutions and the corresponding meetings could be achieved; that would help make the culture of human rights universal.

11. Lastly, she paid tribute to those members that had left the Commission, welcomed the new members elected by the Economic and Social Council and thanked the non-governmental organizations as well as the members of the Bureau and the staff of the Centre for Human Rights for their support.

STATEMENT BY THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS

12. MR. MARTENSON (Under-Secretary-General for Human Rights) likewise pointed to the contrast between the optimism at the Commission's forty-sixth session and the sombre mood of uncertainty in which the current session was opening. The armed conflict that had broken out following the Iraqi occupation of Kuwait was fraught with tragic consequences - loss of life, suffering, human rights violations and a devastating impact on the environment - despite the international efforts made to preserve peace and ensure respect for the basic principles of the Charter of the United Nations.

13. Furthermore, the establishment of fully democratic régimes was encountering serious difficulties in a number of regions, where force was replacing reason and dialogue. Yet the strength of the demands for true democracy of people all over the world was such that their legitimate calls for fundamental human rights could not be permanently denied. It must not be forgotten that for millions of people in many corners of the world, the past few years had marked a return to democracy and liberty.

14. The conflicts that mankind was now witnessing served to underscore the idea that peace and human rights were interrelated and that the effective defence of human rights was essential to preserving peace. Since the adoption of the Charter of the United Nations forty-five years previously, enormous progress had been made, because at the time there had been no generally accepted overall standards or machinery to respond to individual complaints or to massive and systematic human rights violations. Since then, an international code of human rights had been put into place with the Universal Declaration of Human Rights, the International Covenants and numerous other treaties and declarations. Furthermore, progress had been made recently in strengthening national infrastructures through expert advice and by means of training and information programmes. Despite the continued unsatisfactory state of human rights in the world, the United Nations, through its standard-setting activities and its efforts to implement human rights, had certainly had a significant impact on the way people lived throughout the world.

15. In the past few years, the human rights programme had taken on the importance in international affairs it deserved, and the relevance of human rights for other activities in the United Nations had been recognized. In his report on the work of the Organization for 1990, the Secretary-General had stated that the past year had seen the conversion of human rights from a subsidiary theme of international discourse to a dominant concern and, referring to the interrelationship between the three principal objectives of the United Nations, that the resolution of conflicts, observance of human rights and the promotion of development together wove the fabric of peace; if one of those strands was removed, the tissue would unravel.

16. At the forty-fifth session, the General Assembly had made substantial progress in a number of areas, including the adoption by consensus of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The vast majority of the resolutions on human rights had been adopted by consensus. In particular, the work of the Centre for Human Rights in implementing the human rights programme had been strongly supported by a consensus resolution sponsored by 39 States. He expressed his deep gratitude to all those who had assisted in strengthening the Centre's resources. Thus, the fears in some quarters of a North/South split on human rights issues had not been borne out.

17. It was important, in approaching the present session, for the Commission to reflect upon the real human rights situation that persisted despite all efforts. Racial discrimination and intolerance and calls to hatred for racial, religious or other reasons had increased significantly even as old ideological barriers had been falling. Every day, reports were received of torture, disappearances and all sorts of other human rights violations. Millions of human beings were still denied the benefit of the fundamental principles contained in the Universal Declaration. Thus, improving that situation constituted the main challenge facing the international community, and the Commission on Human Rights in particular, in the coming years.

18. Eliminating racial discrimination was an objective reflected in all the activities of the Commission and of the Centre, whether in treaty implementation, assessment of human rights violations, research and study activities, standard-setting or advisory services and public information. The

Organization's efforts to combat racial discrimination found their expression in the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination, of which he was the Co-ordinator.

19. At the present session, the Commission would have before it the results of the Seminar on political, historical, economic, social and cultural factors contributing to racism, racial discrimination and apartheid. Clearly, the efforts of the Commission and of the Centre in that area would focus in particular upon the situation in South Africa. The report of the Ad Hoc Working Group of Experts had taken note of widespread violations in that country, and encouraging progress notwithstanding, the apartheid system was still largely in place.

20. The Commission would also be considering the situation of vulnerable groups, such as indigenous peoples, migrant workers and minorities. Children, surely one of the most vulnerable groups, had been the focus of attention in 1990, with the entry into force of the Convention on the Rights of the Child and the meeting in New York of world leaders for the World Summit for Children. As the session progressed, it would be useful to look at each item to determine its relevance to the rights of the child and how an improved contribution to the realization of those rights could be made.

21. One of the main responsibilities of the Commission was to deal with allegations of violations of human rights, especially those consistent patterns of gross violations which, by their very nature, imperilled international peace and security. In approaching that item, members were aware that action on allegations of human rights violations might well help to prevent conflict and that inaction might lead in the opposite direction.

22. In addition to the situation in South Africa, mentioned earlier, the Commission had a specific agenda item on the situation in the occupied territories, including Palestine. The plight of the civilian occupation in the occupied territories had long been on the agenda of numerous United Nations bodies dealing with various aspects of the problem. The Security Council had recently adopted a very significant resolution (resolution 681) which, inter alia, requested the Secretary-General to monitor the situation regarding Palestinian civilians under Israeli occupation.

23. The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, estabished by the General Assembly in 1968, had endeavoured to provide in its reports a faithful picture of the human rights situation of the civilian population. Another United Nations body which promoted increased awareness of the question of Palestine was the Committee on the Exercise of the Inalienable Rights of the Palestinian People, estabished by the General Assembly in 1975. The information contained in recent reports of those Committees as well as other United Nations organs reflected the dramatic level of tension and violations in the occupied territories. Such conditions made it all the more urgent to take decisive steps for the safety and protection of the population in those territories, to bring an end to the underlying, deep-rooted conflict and to begin building the mutual confidence necessary for long-term peaceful and just solutions.

24. The Commission also had before it, at its current session, reports submitted under several agenda items on the human rights situation in specific countries and reports on such practices as disappearances, summary or arbitrary executions, torture, the use of mercenaries to deny the right to self-determination and incidents of intolerance or discrimination based on religion or belief. The establishment of special rapporteurs had been one of the most important developments in the human rights programme and they played a crucial role, in particular through humanitarian appeals and the positive responses to those appeals. The Commission might wish to consider how the estabishment of special rapporteurs could be strengthened and how their work could be made more relevant to activities to protect human rights on the national level.

25. The promotion of economic, social and cultural rights was a key component in the realization of human rights, and the Secretary-General had stressed the relationship between the establishment of democratic institutions and social justice. The Commission had been a pioneer in seeking ways to promote respect for economic, social and cultural rights and, in so doing, had laid the foundation for the 1986 Declaration on the Right to Development. The Commission's agenda for the session included the important role of popular participation and the question of the implementation of the right to development. Not only must efforts be focused on promoting development but members must also be aware that enjoyment of human rights would be of increasing importance in planning for future economic and social development. The Commission also had before it a number of recommendations on the subject from the Global Consultation on the Realization of the Right to Development as a Human Right.

26. Implementing human rights was, in the final analysis, helping people on the national and local levels to benefit in their daily lives from basic human rights standards and the political, judicial and other institutions necessary for their protection. In many contacts with people from all parts of the world, he had been struck by the immense good will and desire to respect human rights. What people asked for in order to be able to do so was simply to know the rights, as laid down internationally, and to have the training and institutions to apply them. Hence, the crucial importance of the programme of advisory services and technical assistance and information. All those activities had continued to expand, priority being given to building or strengthening national and regional institutions for human rights. Since the establishment of the Voluntary Fund for Advisory Services and Technical Assistance, 19 countries and several non-governmental organizations had made contributions which, as of 31 December 1990, totalled some $US 2 million. He warmly thanked the contributors for their generous support and stressed the need for adequate funding. The promotion of information and educational activities within the framework of the World Public Information Campaign continued with the aim of developing a universal culture of human rights. Co-ordination had increased within the United Nations system and co-operation intensified with regional and national institutions, non-governmental organizations and academic institutions.

27. With respect to legislation, the United Nations was pursuing its action and at its most recent session the General Assembly had adopted several new instruments. The Commission, for its part, was to examine the draft body of principles and guarantees for the protection of mentally-ill persons and for

the improvement of mental health care, as well as a draft declaration on enforced or involuntary disappearances. The Commission would also take up the new proposals concerning the elaboration of future standards in the human rights field.

28. The momentous changes that had taken place over the past few years in international relations, the increased importance given to the question of human rights and the establishment of democratic Governments in many parts of the world constituted, in his opinion, an opportunity for the international community to assess progress in the human rights field and to evaluate developments since the International Conference on Human Rights held in Tehran in 1968. Therefore, in 1989, he had suggested to the General Assembly the holding of a world conference on human rights, since he had thought that the challenges to be met and the potential progress that could be achieved made such a conference particularly appropriate. The General Assembly had decided to convene one in 1993, and had requested the Commission to assist the Preparatory Committee and to make any recommendations it considered appropriate for preparation of the Conference.

29. At its present session, the Commission might wish to discuss ideas and proposals put forward for consideration by the Preparatory Committee at its first session, which was scheduled for early September. Particularly important in that regard were the reaffirmation of United Nations standards in the field of human rights, the universality of those standards, the need to maintain them at a high level and the harmonization of any new standard with the ones already established. It was also important to study the way in which international monitoring machinery, whether or not it was based on existing treaties, could be structured in such a way as to have greater impact on national efforts in the human rights field, to examine the role of bodies defending human rights and various procedures for the prevention and settlement of conflicts and, lastly, to seek ways of mobilizing all sectors of the United Nations system with a view to greater promotion of human rights.

30. With the start of a new year, the Commission was facing a very heavy responsibility: to meet the needs of millions of individuals who looked to the United Nations for understanding and assistance in their efforts to ensure respect for their rights and fundamental freedoms. The challenge was great, but it must be remembered that the efforts of the Commission and the Centre were based on solid achievements and on the will of all to move forward. The Commission could count on his support and the support of the Secretariat in that historic endeavour.

ELECTION OF OFFICERS (item 1 of the provisional agenda)

31. Mr. LANUS (Argentina), speaking on behalf of the Latin American countries, nominated Mr. Bernales Ballesteros (Peru) for the post of Chairman.

32. Mr. STROHAL (Austria), speaking on behalf of the Group of Western European and Other States, Mrs. LEON ESCALER (Philippines), speaking on behalf of the Asian States, Mr. SENE (Senegal), speaking on behalf of the African States, and Mr. RESHETOV (Union of Soviet Socialist Republics), speaking on behalf of the Eastern European States, seconded the nomination.

33. Mr. Bernales Ballesteros (Peru) was elected Chairman by acclamation.

34. Mr. Bernales Ballesteros (Peru) took the Chair.

35. Mr. STROHAL (Austria), speaking on behalf of the Group of Western European and Other States, nominated Mr. Martius (Germany) for one of the posts of Vice-Chairman.

36. Mr. SENE (Senegal), speaking on behalf of the African States, seconded the nomination and also nominated Mr. Amoo-Gottfried (Ghana) for the second post of Vice-Chairman.

37. Mr. ENDREFFY (Hungary), speaking on behalf of the Eastern European States, nominated Mr. Vassilenko (Ukrainian Soviet Socialist Republic) for the third post of Vice-Chairman.

38. Mr. Martius (Germany), Mr. Amoo-Gottfried (Ghana) and Mr. Vassilenko (Ukrainian Soviet Socialist Republic) were elected Vice-Chairmen by acclamation.

39. MR. CHADHA (India), speaking on behalf of the Asian States, nominated Mr. Tauchi (Japan) for the post of Rapporteur.

40. Mr. Tauchi (Japan) was elected Rapporteur by acclamation.

41. The CHAIRMAN thanked members for the honour they had done Peru and Latin America by electing him as chairman of the commission at its forty-seventh session. The peoples of the American continent and the other peoples of the world had encountered one another for the first time almost 500 years before, and Latin America had always endeavoured to acknowledge the identity of the individual and of peoples. In that respect, he wished to pay tribute to Bartolomé de Las Casas, the defender of the rights of the indigenous peoples of the Americas in the fifteenth and sixteenth centuries and forerunner of the universal defence of human rights. Latin America had played its part in the formulation of the fundamental concepts of international law; it had, in particular, contributed greatly to the philosophy underlying the doctrine of human rights.

42. The international situation at present was dramatic because of the war in the Gulf. It was regrettable that it had not been possible to avoid such an outcome, which was due to a failure to respect Security Council resolutions. War, more than any other event, was an affront to human conscience and was a violation of human rights. It was a negation of life, which, in all political systems, all religions and all cultures, was the essence of the individual and of society. War was unacceptable, either as means to an end, or as an end in itself. World society was not in the state of nature described by Hobbes. Technological progress, the development of international law and the universalization of the ethics of human rights, among other things, made it everyone's duty to seek peace through negotiation and conciliation.

43. Since the Yalta accords, the members of the international community had found areas of agreement, the ideology of human rights and fundamental freedoms was becoming more universal and democratic values and the importance of a market economy had become widely accepted. The cold war had ended, not by force, but because the peoples of the world had chosen democracy and justice in order to go beyond peaceful coexistence and establish peace, co-operation and development. It would be for the historians to explain why a conflict had broken out at a time when a new world order was being built and when international conditions were generally favourable. Viewed from the

standpoint of human rights alone, war was a source of hardship and suffering; it was a wound inflicted on the whole of mankind. It was to be hoped that, in its debates, the Commission would display clear thinking and calm, wisdom and moderation, and watch over full application of the guarantees of humanitarian law. He hoped that peace would be restored as quickly as possible in accordance with the rules of international law and the principles of humanist ethics, which had been created by the cultures, religions and value systems of the entire world.

44. No one could deny the progress made by the United Nations in improving the effectiveness of the mechanisms for the protection of human rights. Besides the progress made in the international system in the scientific, technical, economic, political, diplomatic and institutional fields, there was a growing world-wide awareness of human rights and an interdependence in the various types of action taken to protect those rights. Among many others, the French Prime Minister, Mr. Michel Rocard, had told the Commission with particular conviction of his wish that the protection of human rights should be independent of any political consideration; that appeal was still valid.

45. If the protection of human rights was to become truly universal, it was essential that the process of universalization should not be considered on a purely geographical basis. On the one hand, protection of human rights must be guaranteed equally in all countries, regardless of their political system, their degree of economic development and their social organization. On the other hand, the promotion and protection of fundamental rights must take into account the values underlying those rights and must form part of a global perspective. Although technological, cultural, economic and political forces encouraged people to see social relations as an indivisible whole, there were still many different cultures, religions, traditions, value systems and moral positions. A universal concept of human rights could not, therefore, be based on ethnocentric judgements. History showed the relativity of events and demonstrated that humanist principles were not established as fundamental values in all societies at the same time.

46. Even during the American Revolution in 1776 and the French Revolution of 1789, people had perceived the overall and interdependent nature of human rights, since those revolutions had acknowledged both the rights of the individual, such as civil and political rights, and the rights of peoples, such as the right to sovereignty and self-determination. The normative statement of economic and social rights later on had laid the foundations of an integral system of protection, which the United Nations was now developing through the preparation of new conventions and the establishment of humanitarian bodies on a broader and more flexible basis.

47. A scrutiny of laws and declarations revealed an integral concept of human rights, in three dimensions: the individual (the rights and freedoms of the person), society (for rights exercised by social groups, such as economic and social rights, the right to food, the right to development, and so on), and peoples (particularly the right to self-determination). The integral concept of human rights, an indispensable pre-condition to any genuine increase in awareness of those rights, was based on that tridimensional view.

48. An integral approach to human rights called not only for more complex protection mechanisms, but also for the will to reach a consensus aimed at a

new pact of solidarity between nations. It was not true that some rights were incompatible with others. Human rights, like the human person, were and must be treated by the international community as comprehensively as possible.

49. He paid tribute to the immense moral influence of the non-governmental organizations, which, throughout the years, had smoothly co-ordinated their activities with the Commission's work; the links between State and society were becoming more and more essential. In the same connection, he wished to emphasize the importance of the United Nations Centre for Human Rights.

50. Since the Commission's previous session, the human rights situation in the world had improved in many respects and deteriorated in others. Not all problems related to the self-determination of peoples had been resolved yet. Despite the emergency in the Gulf, the Commission should devote all the necessary attention to the many cases where human rights were violated in one country or another. In addition, it should continue to search for ways of dealing more efficiently with certain topics, particularly certain categories of violation, and of improving the existing institutions.

51. The Commission should help countries where there were serious human rights violations to combat those violations. With that in mind, it was essential to keep the Commission free of excessive politicization; indeed, it should strengthen the standards and criteria which allowed it to examine facts objectively. The protection of human rights would be all the more effective if humanitarian logic was allowed to prevail over political logic.

52. The ravages of war and the knowledge that, as Benjamin Franklin had said, there never was a good war or a bad peace, everyone was duty-bound to redouble his or her efforts to promote peace, which was an indispensable material pre-condition for the effective enjoyment of human rights. In order to defend a person as a moral being, it was essential also to defend him or her as a living being, whose dignity was respected and whose material and spiritual needs were satisfied.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.4/1991/1 and Add.1-2)

53. The CHAIRMAN invited members to consider the provisional agenda, which had been drawn up in accordance with rule 5 of the Rules of Procedure of the Functional Commissions of the Economic and Social Council. Delegations which wished to propose amendments to the agenda should submit them to the Bureau for consideration.

54. Mr. AL-KADHI (Iraq) congratulated the Chairman and the members of the Bureau on their election. His delegation would co-operate unreservedly in guaranteeing the success of the Commission's work. He hoped that the Commission would not adopt a double standard when considering the issues before it. In fact, there had already been a one-sided reference to the Gulf war, without any appeal for cessation of the barbarous acts of aggression committed by the United States of America against Iraq. The Iraqi people, like military targets, were being bombed in flagrant violation of all the rules of human rights and the Charter of the United Nations, which was intended to bring peace to the world.

55. Mr. AL-SABAH (Observer for Kuwait) said that the cause of the war had been Iraq's occupation of Kuwait and that the war was the result of the implementation of Security Council resolutions. In its resolution 45/170 of December 1990, the General Assembly had asked the Commission on Human Rights to consider the human rights situation in occupied Kuwait. He had written to the Secretary of the Commission to request that the situation in Kuwait should be considered under agenda item 12, in a new subparagraph (b) entitled: "Question of human rights in occupied Kuwait".

56. The CHAIRMAN said that Kuwait had, indeed, submitted a written request to the Secretariat asking for the question of human rights in Kuwait to be added to the agenda. The Bureau would consider the request.

The meeting rose at 12.40 p.m.